

## JONES DAY

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April 7, 2020

### **Via ECF**

The Honorable Sarah Netburn  
Thurgood Marshall United States Courthouse  
40 Foley Square, Room 430  
New York, NY 10007

RE: *In re Terrorist Attacks of September 11, 2001, 03 MDL 1570 (GBD) (SN)*

Dear Judge Netburn:

We are writing on behalf of the defendants and plaintiffs with upcoming expert deadlines to seek an extension of expert discovery in light of the disruptions caused by the COVID-19 pandemic. In particular, the Personal Jurisdiction and Merits Defendants (“Defendants”<sup>1</sup>) and the Plaintiffs’ Executive Committees (“PECs”) jointly request a 90-day extension of the deadlines given the disruptions and work challenges faced by expert witnesses and our Defendant clients.

### **1. Background**

Defendants’ expert reports are currently due on May 8, 2020. ECF No. 5921. The plaintiffs’ expert disclosures and corresponding reports relating to defendants Mr. Yassin Kadi and Mr. Wa’el Jelaidan are on a separate schedule: plaintiffs’ expert disclosures and initial reports are due respectively on June 30, 2020 and July 31, 2020 (or thirty days from Mr. Jelaidan’s deposition, if earlier). ECF No. 5751.

As this Court is aware, the local and global impacts of COVID-19 evolve rapidly each day, including increasing restrictions relating to quarantining, business operations, and travel. The experts, our clients, and counsel have all been affected by these conditions. As a result, the ability to meet the current deadlines for expert reports has been significantly and unexpectedly impaired.

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<sup>1</sup> For purposes of this letter, the “Defendants” consist of the Dubai Islamic Bank, World Assembly of Muslim Youth, Muslim World League, International Islamic Relief Organization, Abdullah Omar Naseef, Abdullah bin Saleh al Obaid, Abdullah Mohsen al Turki, and Adnan Basha.

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The pandemic has caused severe disruptions to the experts' own schedules, interrupting the experts' ability to set aside time to work on reports that we collectively had contemplated prior to the spread of the virus. For example, at least five academic experts are now handling a novel and time-intensive transition to online curriculums and classes, and one expert is part of the U.S. government's COVID-19 response team, which serves as a further demand on his time. In addition, most experts are located outside of the cities in which counsel are situated. At least four experts are located outside the U.S., including in Italy (which is one of the epicenters of the COVID-19 pandemic). Due to the significant travel restrictions resulting from COVID-19, counsel are now unable to schedule in-person meetings with their experts to finalize their reports and remote meetings have been more difficult to schedule given the other demands on the experts' time. Though counsel continue to try to remotely work with experts, the process of coordinating such work has been significantly disrupted.

Compounding these issues for defense counsel are the number of new factual issues raised in plaintiffs' initial expert reports (served on March 10, 2020). Those new factual allegations require additional coordination with overseas clients, including additional factual investigation and discussions with clients and witnesses. Those foreign clients and witnesses, however, are also facing substantial impairments to working due to COVID-19.

## **2. Extension Request**

We are aware that the circumstances resulting from COVID-19 remain uncertain. To try to avoid repeated piecemeal extension requests, we propose a 90-day extension to outstanding deadlines that we believe will afford a realistic amount of time in which to complete expert discovery given the current conditions.

A. The Defendants request, with the PECs' consent, that the Court grant a 90-day extension for the remaining deadlines in expert discovery that are currently governed by the Order at ECF No. 5921. The proposed revised schedule is as follows:

- 1) August 7, 2020 – Defendants' affirmative and rebuttal expert reports due.
- 2) September 8, 2020 – Plaintiffs' rebuttal expert reports (if any) due.
- 3) November 13, 2020 – Deadline for completion of expert discovery.

Within five business days of the Court's entry of this Order, the Defendants shall inform the PECs of the identity of Defendants' experts and the topics on which those experts will provide an opinion.

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B. The PECs request, with the consent of Defendant Yassin Kadi, that the Court grant a 90-day extension to the deadlines in expert discovery governed by the Order at ECF No. 5751.<sup>2</sup> The proposed revised schedule is as follows:

- 1) September 28, 2020 (or 30 days after Mr. Jelaidan's deposition, whichever is earlier) – PECs shall inform Mr. Yassin Kadi and Mr. Wa'el Jelaidan of the identity of Plaintiffs' experts and the topics on which those experts will provide opinions.
- 2) October 30, 2020 – Plaintiffs' affirmative expert reports due.
- 3) December 28, 2020 – Defendant Yassin Kadi and Wa'el Jelaidan's affirmative and rebuttal reports due.
- 4) January 29, 2021 – Plaintiffs' rebuttal expert reports (if any) due.
- 5) March 29, 2021 – Deadline for completion of expert discovery concerning claims against Yassin Kadi and Wa'el Jelaidan.

Respectfully submitted,

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<sup>2</sup> Wa'el Jelaidan's counsel has not provided his position on this request.

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*On behalf of the MDL 1570 Plaintiffs' Exec.  
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cc: Counsel of Record (via ECF)